

discourtesy to the members of the privy council who in the past have given so much of their time to the cases we have placed before them. Notwithstanding this, I am in favour of the principle that the Supreme Court of Canada should be the court of last resort so far as all Canadian cases are concerned. But, Mr. Speaker, I suggest that one supreme court justice be nominated by the bar association of each province, appointed to the position, paid by the legislature of the province and sworn in by the central government. This would be a democratic method of procedure. But for us to attempt to take from the provinces at this time the right of appeal to the privy council, limiting them to the final decision of a supreme court nominated and appointed by the dominion executive, would engender a well founded suspicion in the minds of the members of the provincial legislatures that the executive of this dominion government were attempting to do away with their right of appeal to the privy council; so that if or when the dominion government should have the British North America Act amended without the consent of all the provinces, as is proposed, those provinces would have no appeal but would be compelled to abide by the decision of a court created and constituted by the dominion.

Thus would this government cut off the last resort of the provinces. After having had the decisions of the privy council to guide our actions with regard to legislation affecting all the provinces; having been told by them that the dominion is created by the provinces and is not their master; having been told that legislation in respect to Canada, both externally and internally, must receive the assent of all the provinces, why attempt to do something which is not within our power, something which will most certainly be held ultra vires of the power of the dominion by the Judicial Committee of the Privy Council?

The question before the house is: Are we to attempt to enact a measure which will entail considerable expense in being taken before our courts, and from there to the privy council? I have no hesitancy in stating that in my opinion such an enactment will be disallowed unless it receives the assent of the provincial legislatures. Therefore I believe it would be best for all concerned if the hon. member would withdraw this bill.

Mr. THORSON: Before the hon. member sits down, will he please indicate to the house the name of the constitutional authority with whom he has been consulting in his study of these subjects, and the name of the author

of the pamphlet which I have no doubt is the source of his dissertation upon these matters?

Mr. KUHLM: I feel that the hon. member can answer the question for himself.

Mr. THORSON: What is the name of the constitutional authority?

Mr. KUHLM: The authorities for the statements I have made are indicated in the speeches I have given, and if the hon. member would take the trouble to refer to my address of February 10, he will find in each case the authority for the statements I gave.

Mr. THORSON: Is the hon. member refusing to answer my question?

Mr. V. J. POTTIER (Shelburne-Yarmouth-Clare): Mr. Speaker, I had no intention of taking part in this debate; but in view of the atmosphere that has been gathering momentum as the debate continues, of blaming the privy council for the chaotic condition in which we find constitutional matters in Canada to-day, I have thought it wise to make a few observations, because otherwise I am afraid the house might be taken as unanimously of the view that appeals to the privy council should be abolished.

I do not agree with the contention that the privy council is responsible for our constitutional difficulties to-day. I have gathered the impression, listening to the speakers this afternoon and this evening, that it was felt that the privy council should interpret the British North America Act in a somewhat different way from that in which they would interpret any other act or statute. I submit that the British North America Act is a statute and that the Judicial Committee of the Privy Council have interpreted that statute according to well recognized legal principles. In other words, they have been looking at the act itself, at the language used by the framers of the act, and have tried to discover the intention of its framers by the words they used. That is a well recognized legal principle, and when the words themselves are clear and plain there is no legal principle that I know of that would justify interpreting a constitution or act differently from any other statute. I submit that what the privy council has done is to give us what the framers of the British North America Act intended to give us by the words they used. Blaming the privy council to-day because we have constitutional difficulties in Canada is rather unfortunate. I think it unjustly reflects on the capacity that is being displayed by the privy council itself. We have heard that the pendulum has swung to and fro, restricting and extending the